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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,831	08/08/2001	David Vozick	65252	2876

7590 01/28/2003

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EXAMINER

CHAWAN, VIJAY B

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/924,831	VOZICK ET AL.	
	Examiner	Art Unit	
	Vijay B. Chawan	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewaele (6,047,257).

As per claim 1, Dewaele teaches an apparatus for hands-free command and control of a dental imaging system having a display monitor, a microphone and storage device storing a plurality of dental images corresponding to a selected dental patient, comprising:

a speech recognition unit which converts to electronic speech data a voice command received through the microphone to select one of the plurality of images for viewing (Fig.1, items 4, 6, 8 and 7, Col.5, lines 1-65, Col.7, lines 45-55); and,

a command and control processor for the electronic speech data received from said speech recognition unit, wherein said command and control processor

causes the selected image to be retrieved and displayed on the display monitor (Col.9, line 39 – Col.10, line 65).

Dewaele while teaching displaying medical images in the field of Radiology, so that the attending physician can make his or her diagnosis and transcribed in response to voice commands recognized by the speech recognizer, do not specifically teach in the field of dentistry. It would have been obvious to one with ordinary skill in the art at the time of invention to implement the method and apparatus as taught by Dawaele in the medical field to the field of dentistry because, one would readily realize that by using speech recognition to display plurality of dental images would provide the hands free environment to the user and also have the data needed.

As per claims 2-14, Dewaele teaches the method of claim 1, further comprising manipulation of images corresponding to a dental patient (Fig.1, items 4, 6, 8 and 7, Col.5, line 1- Col.6, line 6, Col.7, lines 19-55, Col.9, line 39 – Col.10, line 65).

Claims 15-16 are similar in scope and content of claim 1, and are rejected under similar rationale.

Claims 17-18 are method claims to be implemented on the apparatus claimed in claims 15-16, and are similar in scope and content, and are rejected under similar rationale.

Response to Arguments

3. Applicant's arguments filed 11/14/2002 have been fully considered but they are not persuasive. Applicants' argue that "Dawaele'257 does not disclose or suggest, however, retrieval for display of a computer stored dental (or medical) image based on a voice command to retrieve the image which is detected through speech recognition". Examiner disagrees. Dewaele does retrieve and use images stored in diagnosing or analyzing patient data (Col.5, line 44 – Col.6, line 6), and transcribing it. Dewaele identifies medical images through speech recognition by accessing them when needed from a storage database, identifiable using the patient's particulars.

In response to applicant's argument that Dewaele '257 does not suggest that hands-free operation implemented through speech recognition minimizes the risks of contamination, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

It would have been obvious to one with ordinary skill at the time of invention that the use of speech recognition to access patient data, or in the instant application, dental images in the form of data clearly shows the advantage of hands-free operation, whether for minimizing the risks of contamination or to facilitate the use of both hands to be free to do whatever the user wants to do with the hands, either by a dentist or a radiology technician or a physician.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lai et al., ("Medspeak : report creation with continuous speech recognition", Conference proceedings on Human factors in computing systems, 1997, ACM Press, pages 431-438).

Krapichler et al., ("Virtual reality and multimedia human-computer interaction in Medicine", 1998 IEEE Workshop on Multimedia Signal processing, pages 193-202).

Guerrouad ("Voice control in the surgery room", Images of the Twenty-first century, Proceedings of the Annual International Conference of the IEEE Engineering in Medicine and Biology, vol.3, pages 904-905).

Teel et al., ("Voice-enabled structured medical reporting", Conference on Human factors and computing systems, 1998, ACM Press, pages 595-602).

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (703) 305-3836. The examiner can normally be reached on Monday Through Thursday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Vijay B. Chawan
Vijay B. Chawan 1/23/03
Primary Examiner
Art Unit 2654

vbc
January 23, 2003

**VIJAY CHAWAN
PRIMARY EXAMINER**